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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/706,588      | 11/12/2003  | Lawrence E. Brice    | MPD-10502/08        | 6678             |

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EXAMINER

HEWITT, JAMES M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3679

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/706,588

Applicant(s)

BRICE, LAWRENCE E.

Examiner

James M Hewitt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-41 is/are allowed.
- 6) ☒ Claim(s) 1-6, and 10-14 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 15-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The drawings are objected to because:

In Figures 3, and 6, numeral '38' does not reference the spacer.

In Figure 11, numeral '138' does not reference the spacer.

In Figure 5, numeral '54' does not reference the flange.

Numeral '24' is not referenced in the specification.

In Figures 3 and 11, the bolts are incorrectly shown to extend through the port members, instead of through the spacer.

In Figures 3 and 11, four sides of the port members are incorrectly shown as rounded.

Shouldn't the cross-sectional view of Figure 5 show the bolt extending through the spacer?

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 15-29 are objected to because of the following informalities:

In claim 15 line 10, "a fastener" should be "the fastener" to reference that recited in line 6 of the claim.

In claim 22 line 10, "a fastener" should be "the fastener" to reference that recited in line 6 of the claim.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-6, 10 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gasche (US 3,398,978).

With respect to claim 1, Gasche discloses a clamp assembly for interconnecting components in a fluid system comprising: two interconnected clamp members (11, 12, and inclusive of members 15) each having a C-shape that form a channel; a spacer (21) disposed within said channel, wherein said spacer includes a centrally located bore defining a part of a central passageway for the transmission of a fluid; at least one port member (6, 7) removably engaged in said clamp member channel adjacent said spacer, wherein said port member includes a center portion with a clamping portion at one end of said center portion and a connecting portion at the opposite end and a longitudinally extending bore defining part of a central passageway for the transmission of the fluid; and a flange (8) extending radially from said port member clamping portion, wherein said flange has a predetermined shape corresponding to that of said clamp member channel, so that a plurality of clamping forces from said clamp members are directed radially inwards from points of contact between said flange and said clamp members to provide cross loading.

With respect to claim 2, further comprising a fastener (19, 20) for interconnecting said clamp members.

With respect to claim 3, wherein each said clamp member includes a longitudinally extending bore for receiving the fastener for interconnecting the clamp members.

With respect to claim 5, wherein each clamp member includes two sidewalls (straight portions receiving the fastener) and an outer wall (curved portion) disposed between said sidewalls to cooperatively form said clamp member channel.

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With respect to claim 6, wherein a free edge of said sidewalls has a predetermined shape to define an opening corresponding to the predetermined shaped of said port member flange. Refer to Figure 1.

With respect to claim 10, further comprising two port members disposed in the clamp member channel, wherein one port member is an inlet port member and the other is an outlet port member.

With respect to claim 13, wherein said port member flange and said clamp member channel each have a circular shape.

With respect to claim 14, wherein said port member connecting portion has a circular shape for interconnecting the fluid system components.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gasche (US 3,398,978).

With respect to claim 4, Gasche fails to teach or fairly suggest a mounting bracket for holding the clamping assembly. As Applicant did not properly challenge or refute the official notice of the use of a mounting bracket to hold and support a clamping assembly, such is now taken to be admitted prior art. And it would have been obvious

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to one having ordinary skill in the art at the time the invention was made to modify Gasche with a mounting bracket in order to permit the clamping assembly to be supported.

With respect to claims 11 and 12, Gasche fails to teach that the port member flange, clamp member channel and port member connecting portion have an octagonal shape. As Applicant allows for different shapes for the port member flange, clamp member channel and port member connecting portion, and since it has been held that a change in shape involves only routine skill in the art, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gasche's port member flange, clamp member channel and port member connecting portion to be octagonal.

### ***Allowable Subject Matter***

Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-29 are objected to (see ***Claim Objections*** above), but would be allowable if rewritten to overcome the above noted objections.

Claims 30-41 are allowed.

***Response to Arguments***

Applicant's arguments filed 7/7/04 have been fully considered but they are not persuasive.

Applicant asserts "Gasche '978 does not disclose a clamp assembly that includes a port member that is separable from the members being interconnected and directs the clamping forces radially inwards from the contact points between the clamp member and the flange towards the center of the fluid passageway." To note, claim 1 requires "at least one port member removably engaged in said clamp member channel" and "wherein said flange has a predetermined shape corresponding to that of said clamp member channel, so that a plurality of clamping forces from said clamp members are directed radially inwards from points of contact between said flange and said clamp members to provide cross loading." Gasche's port members can be removed from the clamp members' channel via loosening the fasteners (19, 20). And the flange (8) has a shape corresponding to the clamp member channel (see Figure 1), so that a plurality of clamping forces from said clamp members (11, 12, 15) are directed inwards from points of contact between said flange and said clamp members to provide cross loading.

And to address Applicant's additional assertions in the first full paragraph on page 14, Gasche's two clamping members form a channel with a spacer (21) therein (see Figure 1) that defines a central passageway for the transmission of a fluid. Regarding the assertions in the second full paragraph, the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are



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interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

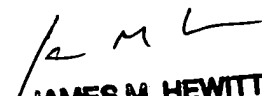
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JAMES M. HEWITT**  
**PRIMARY EXAMINER**